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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7
8 SAFECO INSURANCE COMPANY OF
9 AMERICA,

10 v.
11 Plaintiff(s),

12 AIR VENT, INC., et al.,

Defendant(s).

Case No. 2:20-cv-01579-JAD-NJK

Order

13 On July 25, 2022, United States District Judge Jennifer A. Dorsey ordered the parties to
14 appear for a mandatory settlement conference. Docket No. 92 at 14. Also on July 25, 2022, the
15 undersigned issued an order setting that settlement conference and establishing the requirements
16 for it. Docket No. 94. The Court ordered that, for any corporate party, the settlement conference
17 must be attended by “an officer or representative with binding authority to settle this matter up to
18 the full amount of the claim or last demand made.” *Id.* at 2. The Court further ordered that “[a]ny
19 request for an exception to the above attendance requirements must be filed and served on all
20 parties within 14 days of the issuance of this order.” *Id.* Hence, the deadline to request an
21 exception to this attendance requirement expired on August 8, 2022, or nearly three months ago.
22 The settlement conference is set for November 7, 2022. Docket No. 96. The Court set the
23 settlement conference for that date based on the affirmative representation that “[t]he parties are
24 available” on that date. Docket No. 95 at 2.

25 In the lead up to the settlement conference, the Court received a settlement statement from
26 third-party Defendant Powermax identifying by name its corporate representative but indicating
27 that she would not attend the settlement conference. Powermax made this assertion despite never
28 receiving, or even requesting, an exception to the Court’s order requiring attendance by a corporate

1 representative. On November 1, 2022, the Court ordered Powermax to either show cause why it
 2 should not be sanctioned or to file a notice that a corporate representative would attend the
 3 settlement conference. Docket No. 100. On November 3, 2022, Powermax filed a notice that “a
 4 representative for Powermax will appear on its behalf,” but the notice did not provide the name or
 5 email address for that person. Docket Nos. 102, 103; *but see* Docket No. 94 at 2-3 (requiring the
 6 name and email address for settlement conference participants). On November 3, 2022, the Court
 7 ordered Powermax to provide the name and address of its corporate representative. Docket No.
 8 104.

9 On November 4, 2022, Powermax provided its notice that “K. Michelle Bolton will be in
 10 attendance as the corporate representative for Powermax.” Docket No. 105 at 2. That notice did
 11 not explain who Bolton is or how she is connected to Powermax. The email address provided for
 12 Bolton shows that she works not for Powermax, but rather for a company providing adjuster
 13 services. *See* <https://www.crawco.com/services> (last visited Nov. 4, 2022). No explanation has
 14 been advanced as to how an outside adjuster would qualify a corporate representative.¹

15 In light of the circumstances, the Court **CONTINUES** the settlement conference. The
 16 parties must file a stipulation with five dates on which all required participants are available. This
 17 stipulation must be filed by November 21, 2022. If Powermax continues to resist having an actual
 18 party representative participate in the settlement conference, it must properly file a request seeking
 19 such relief by November 14, 2022. *See* Docket No. 94 at 2. Powermax must otherwise file, by
 20 November 14, 2022, a notice specifying the corporate representative who will attend, identifying
 21 her role in the company, and providing her email address.

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24 ¹ Having the actual parties appear at a settlement conference is important for a variety of
 25 reasons. With respect to settlement authority, Powermax now represents that its insurance carrier
 26 (AIG) has full settlement authority. Docket No. 105 at 2. Such a representation was not made in
 27 Powermax’s settlement statement. Regardless of whether an insurance representative may have
 28 settlement authority, however, the Court’s order still requires the attendance of an actual party
 representative. *See* Docket No. 94 at 2 (requiring attendance by a corporate representative “and”
 an insurance representative). Attendance by the actual party itself is important for several other
 reasons, including that she may have unique insight into the factual issues in the case. *Cf. HSBC
 Bank USA, N.A. v. Flamingo 316, LLC*, 2019 WL 2358391, at *3 n.7 (D. Nev. June 4, 2019).

1 As to the order to show cause, Docket No. 100, Powermax and its attorneys (Jorge Ramirez,
2 Christopher Phipps, and Thomas Demicco) are hereby **ADMONISHED** for their failure to comply
3 with a Court order. At a minimum, the Court ordered that a proper request for an attendance
4 exception had to be filed by a date certain; Powermax and its attorneys violated that order by
5 submitting a settlement statement indicating that they would not have an individual company
6 representative attend the settlement conference despite never seeking or receiving such relief.² The
7 Court expects strict compliance with its orders and all applicable rules moving forward. In all
8 other respects the order to show cause is **DISCHARGED**.

9 IT IS SO ORDERED.

10 Dated: November 4, 2022

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12 Nancy J. Koppe
United States Magistrate Judge

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27 ² The Court has concerns as to counsel's candor in the recent filings, which appear to be
28 misleading. The Court will not inquire further or make findings as to that particular issue. Instead,
the Court reminds counsel that they have an ethical obligation to be candid in their filings and
failure to fulfill that obligation may result in significant consequences.